IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 5735 OF 2003

MEHABOOB SHAMSHUDDIN KAZI @ TORAGAL (deceased) through Legal heirs SMT. SABERA MEHABOOB KAZI @ TORAGAL & ORS. .. PETITIONERS

Versus

KHUTABUDDIN MODULAL KAZI & ANR.. RESPONDENTS

Mr. V. S. Kapse for petitioner
Mr. G.N. Salunke for respondent 1

CORAM: SMT. RANJANA DESAI, J.

DATED: 31/3/2006

P.C.:-

. Heard learned counsel for the parties.

2. The petitioners are the original plaintiffs. They have challenged the judgment and order dated 5/8/02 passed by the Additional District Judge, Gadhinglaj in Misc. Civil Appeal No. 35 of 2002 and order dated 12/6/02 passed by Civil Judge, Junior Division, Chandgad on Exh.-5 in Regular Civil Suit No. 57 of 2001 whereby their application for temporarty injunction was rejected.

3. On 7/8/03 this court issued notice before

admission to the respondents. Mr. Salunke is representing respondent 1. Respondent 2 has been served by advocate's notice but he has not engaged any advocate. On 7/8/03 pending admission parties were directed to maintain status quo of possession. This order is operating from 7/8/03 till date.

4. Sofar as possession is concerned both the courts have concurrently held that the respondents have been in possession. In such situation and since the status quo order as to possession is operating from 7/8/03, in my opinion, interest of justice would be served, if the suit is expedited and the order dated 7/8/03 is ordered to continue during the pendency of the suit. Hence the following order:

. Regular Civil Suit No. 57 of 2001 pending on the file of Civil Judge, Junior Division, Chandgad is expedited. During the pendency of the suit parties are directed to maintain status quo of possession. It is clarified that this court has not expressed any opinion on the merits of the case.

. Writ petition is disposed of in the aforestated

terms.

(SMT. RANJANA DESAI,J.)